

PS 8
(10/97)

UNITED STATES DISTRICT COURT
for the
Western District of Virginia

U.S.A. vs. Andrew Bradley Gearheart

Docket No. 7:23CR00013-001

Petition for Action on Conditions of Pretrial Release

COMES NOW Sara C. Morehead, Senior Probation Officer, presenting an official report upon the conduct of defendant Andrew Bradley Gearheart, who was placed under pretrial release supervision by the Honorable Robert S. Ballou sitting in the Court at Roanoke, Virginia, on March 23, 2023, and was released under the following conditions:

- (o) *“The defendant must not use or unlawfully possess a narcotic drug or other controlled substances defined in 21 U.S.C. §802, unless prescribed by a licensed medical practitioner.”*
- (p) *“The defendant must submit to testing for a prohibited substance if required by the pretrial services office or supervising officer. Testing may be used with random frequency and may include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. The defendant must not obstruct, attempt to obstruct, or tamper with the efficiency and accuracy of prohibited substance screening or testing.”*
- (u) *“The defendant must report as soon as possible, to the pretrial services or supervising officer, every contact with law enforcement personnel, including arrest, questioning, or traffic stops.”*
- (v) *“The defendant shall follow the instructions of the pretrial supervising officer.”*

On April 21, 2023, this officer, and Supervisory Probation Officer Kimberly Falatic (SUSPO) went to Gearheart’s residence. He was home with his mother and the residence smelled of marijuana. Gearheart was instructed to provide a walkthrough of his home, in doing so, this officer observed a smoking device in his bedroom and what appeared to be a “blunt” in an ashtray. While this officer was speaking to his mother, SUSPO Falatic saw an unknown green leafy substance on a Looney Tunes tray, and what appeared to be Gearheart sticking something down his pants. This officer asked Gearheart to provide a urine sample. Gearheart provided a urine sample that was cold and appeared to be toilet water. He was asked if he altered the test and if he used marijuana, he stated “no.” This officer along with SUSPO Falatic decided to request SUSPO Murphy to come to the residence to do an observed urinalysis. Gearheart became very agitated and was asked to have a seat. While waiting for SUSPO Murphy, this officer spoke to Gearheart about admitting if he

was using marijuana, the option for treatment, and concerns of who he was associating with. During the visit he reported it was his girlfriend, and friends who come to his house to smoke marijuana, not him. When asked who his girlfriend was, he would not disclose her name. He further reported that a few weeks ago he was questioned by law enforcement concerning his codefendant's residence being vandalized. Gearheart did not report this law enforcement contact. Gearheart was argumentative and did not want to comply with this probation officer's instructions and continually tried to get up from the couch. Given Gearheart's demeanor and SUSPO Falatic's request for SUSPO Murphy's assistance, SUSPO Murphy contacted the USMS.

Upon SUSPO Murphy's arrival, this officer immediately asked him to accompany Gearheart to the restroom and obtain an observed urinalysis. SUSPO Murphy was advised the prior sample was believed to have been toilet water. Gearheart appeared anxious and distracted. Immediately, he tried to turn away from SUSPO Murphy to provide the sample. SUSPO Murphy told Gearheart that he must face the toilet while providing the sample. Gearheart ignored his initial instruction. SUSPO Murphy again told him to turn around, and he responded with "I'm trying to do this." Again, he told him to turn around, and he again ignored his command. At this point, given his refusal to follow commands, the information that he may have something hidden in his pants, and his refusal to follow the officer's directives, SUSPO Murphy became concerned for his safety. He again demanded that Gearheart turn and show his hands. Once he finally turned as directed, he called SUSPO Murphy a "weirdo" and said "you like this don't you."

Gearheart was advised that the officer must see the urine pass from him to the collection cup. After several minutes and continued argument, SUSPO Murphy told Gearheart to step out of the small bathroom. He was reminded that he must provide the sample according to our protocol.

While his urinalysis was being collected this officer and SUSPO Falatic searched Gearheart's bedroom and found the following: a blue, white, and grey glass bong, four smoking devices, a green leafy substance on a Looney Tunes tray, a "blunt", rolling papers, eight empty packages of marijuana, one package with marijuana in it, and two Glock back straps.

A urinalysis was finally provided for the second time by Gearheart, and it was positive for marijuana. He denied use and stated he had been in a vehicle with some friends who were "hot boxing." As this officer was leaving and speaking again to him about marijuana use and providing places to go for an assessment and a substance abuse provider's contact number, Gearheart admitted he uses marijuana every day and the last time he used was April 20, 2023. He reported he uses it to help with his anxiety. This officer encouraged him to contact the provider that was provided and get assistance with his anxiety and his illegal drug use.

Respectfully presenting petition for action of Court and for cause as follows:

PRAYING THAT THE COURT WILL ORDER that a hearing be scheduled and a summons issued to determine whether the defendant's bond should be revoked.

ORDER OF COURT

Considered and ordered this 25th day
of April, 20 23 and ordered filed
and made a part of the records in the above
case.

Robert S. Ballou

U.S. Magistrate Judge

I declare under penalty of perjury that the
foregoing is true and correct.

Executed on: April 24, 2023

Sara C. Morehead

Senior U.S. Pretrial Services/Probation
Officer

Place: Roanoke, Virginia